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BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
HELENA, MONTANA

IN THE MATTER OF:)	CASE NO. 2003-2
)	
THE PROPOSED DISCIPLINARY)	CONSENT AGREEMENT
TREATMENT OF BENCHMARK)	
INSURANCE COMPANY,)	
)	
Respondent.)	

TO: John Spain, CPCU
Assistant Secretary and
Director, Regulatory Relations
and Affinity Programs
Benchmark Insurance Companies
6701 West 64th Street, Ste. 125
Shawnee Mission, KS 66202

FAX: 913-722-1471

I.

The Montana Insurance Commissioner (Commissioner), pursuant to the authority of the Insurance Code of Montana, Section 33-1-101, et seq., Montana Code Annotated (2001) (MCA), determines that there is probable cause to believe that the following allegations, if true, justify and support disciplinary treatment.

ALLEGATIONS

1. Benchmark Insurance Company (Benchmark) is an insurance company domiciled at Shawnee Mission, Kansas. Benchmark has contracted with Corporation Benefit Services of America as program administrator to handle the initial part of producer licensing, to include appointments.

2. There were 78 contracts where producers sent the contracts to Corporate Benefit Services of America but they were not executed by Benchmark.

3. During a timeframe of 1999 to the present, Benchmark executed contracts with 11 Montana licensed insurance producers, but then did not appoint the producers within 15 days of executing the contracts.

4. When contacted about this problem, Benchmark took immediate remedial steps.

5. Benchmark at all times cooperated in requests for information, and has not been confrontational through the process.

CONCLUSIONS

1. The State Auditor is the Commissioner of Insurance pursuant to section 2-15-1903, Mont. Code Ann.

2. The insurance department is under the control and supervision of the Commissioner pursuant to section 33-1-301, Mont. Code Ann.

3. A person may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code pursuant to section 33-1-102, Mont. Code Ann.

4. The Commissioner shall administer the Department of Insurance to protect insurance consumers pursuant to section 33-1-311, Mont. Code Ann.

5. Benchmark violated section 33-17-236, MCA in not appointing a producer with the State Auditor within 15 days of executing a contract with the producer.

II.

Benchmark stipulates and consents to the following:

- A. To pay a \$11,000 fine (\$1000 per violation);
- B. This consent agreement becomes an order of the commissioner upon all parties signing, and further understands that respondent's failure to comply with this order constitutes a separate violation of the insurance code pursuant to sections 33-2-119, 33-17-1001 or other applicable codes;
- C. To agree to appoint insurance producers within 15 days

of signing a contract with an insurance producer;

D To either file the appointments for the 11 contracted producers, or to cancel any contracts where the producer is not currently representing Benchmark. Also to inform producers whose contracts Benchmark has not executed that those producers are not appointed and may not represent the company;

E. To waive the right to a hearing on the above-mentioned allegations and by entering into this consent Benchmark neither admits nor denies the substance of the allegations of the Commissioner;

F. Benchmark has read the foregoing Consent Agreement, and fully understands its contents and effect;

G. Benchmark understands that the Consent Agreement is part of the file, which is a public record; and

H. It is further understood that this Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied.

III.

Pursuant to the stipulation and consent of Benchmark, the Commissioner, under authority of the Insurance Code of Montana and Section 2-4-603, MCA, hereby agrees that if the terms and

conditions of this Consent Agreement are fully met, he will not initiate any civil or administrative action against Benchmark regarding the allegations contained above or any other appointment violation from 1999 to the date that this consent agreement is executed. In consideration for the Commissioner not initiating any civil or administrative action, Benchmark fully and forever releases and discharges the Office of the State Auditor, the elected State Auditor and all State Auditor employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the above entitled administrative action.

Respondent agrees to sign, have notarized, and send the consent agreement with check for the full amount to "State Auditor"; Respondent will send the consent agreement to Kevin F. Phillips, Staff Attorney, Montana Department of Insurance, 840 Helena Ave, Helena, MT. 59601.

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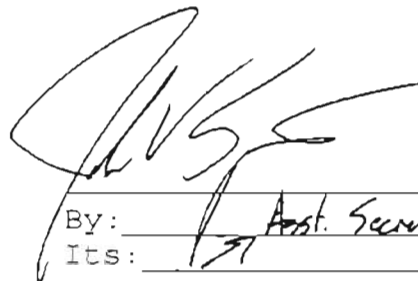
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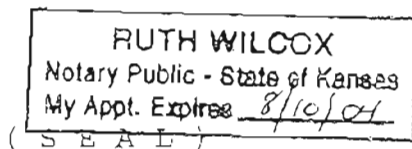
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DATED this 12th day of May, 2003.

BENCHMARK INSURANCE COMPANY


By: John V. Spain
Its: Asst. Secretary

Subscribed and Sworn to before me this 12th day of May, 2003.



Ruth Wilcox
Notary Public for the
State of ~~Montana~~ Kansas
Residing at Shawnee Mission KS
My commission expires 8/10/04.

JOHN MORRISON
State Auditor and
Commissioner of Insurance

By: Alicia Pichette
Alicia Pichette
Licensing Bureau Chief
Montana Dept. of Ins.
840 Helena Ave
Helena, MT. 59601